

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

ERNESTO GARCIA, #1591074 §

VS. § CIVIL ACTION NO. 6:18cv380

DIRECTOR, TDCJ-CID §

ORDER ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE

Petitioner Ernesto Garcia, a prisoner confined within the Texas Department of Criminal Justice (TDCJ), proceeding *pro se*, filed this habeas action challenging an adverse parole determination. The case was referred to United States Magistrate Judge, the Honorable K. Nicole Mitchell, for findings of fact, conclusions of law, and recommendations for the disposition of the petition.

On March 17, 2021, Judge Mitchell issued a Report, (Dkt. #9), recommending that Petitioner's habeas petition be denied and that the case be dismissed, with prejudice. Judge Mitchell further recommended that Petitioner be denied a certificate of appealability *sua sponte*. A copy of this Report was sent to Petitioner at his last-known address, with an acknowledgment card. To date, however, no objections have been filed.

Because objections to Judge Mitchell Report have not been filed, Petitioner is barred from *de novo* review by the District Judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjection-to proposed factual findings and legal conclusions accepted and adopted by the district court. *Douglass v. United Services Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

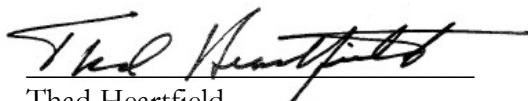
The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined that the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (holding that where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law."). Accordingly, it is

ORDERED that the Report of the United States Magistrate Judge, (Dkt. #9), is **ADOPTED** as the opinion of the Court. Further, it is

ORDERED that Petitioner's habeas petition is **DENIED** and the above-styled case is **DISMISSED**, with prejudice. Petitioner is also **DENIED** a certificate of appealability *sua sponte*. Finally, it is

ORDERED that any and all pending motions which may be pending in this case are hereby **DENIED** as **MOOT**.

SIGNED this the **19** day of **April, 2021**.



Thad Heartfield
United States District Judge